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| 09/767,413 | 01/23/2001 | Cynthia L. Cassel | 887 | 2467 |

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John D. Gugliotta, P.E., Esq.
202 Delaware Building
137 South Main Street
Akron, OH 44308

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[REDACTED] ART UNIT

[REDACTED] PAPER NUMBER

2632

DATE MAILED: 03/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 9

Application Number: 09/767,413

Filing Date: 01/23/01

Appellant(s): Cassel et al.

John D. Gugliotta
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed January 15, 2002.

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

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A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 1-11 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(9) *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

| | | |
|---------|-------------------|--------|
| 5928157 | O'Dwyer | 7-1999 |
| 6011477 | Teodorescu et al. | 1-2000 |
| 4862144 | Tao | 8-1989 |

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(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-11 are rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office action, Paper No. 6.

(11) *Response to Argument*

Arguments:

- 1) O'Dwyer fails to teach a pliable chest strap of a soft and formable material being easily wrapable about the chest of an infant.
- 2) O'Dwyer fails to teach a first resonant sensor for detecting respiration and movement of the infant and a second resonant sensor spaced laterally apart from the first resonant sensor for detecting heart rate pulse.
- 3) O'Dwyer fails to teach a receiver comprising a lighting means.
- 4) Teodorescu et al. fails to teach a second resonant sensor which detects heart rate and pulse.
- 5) Teodorescu et al. fails to teach a receiver comprising a lighting means.
- 6) Tao fails to teach a night light for illuminating continuously during infant sleeping periods.

Response to Arguments:

- 1) Although O'Dwyer teaches a stiff strap; however, it does mean that a stiff strap cannot be made out of a soft material. Accordingly O'Dwyer does teach a combination

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breathing monitor alarm and audio baby alarm comprising an attachable transmitter (105) forming a main body of a linearly elongated, pliable chest strap of formable material that is easily wrapable about the chest of an infant (see Figs. 2 and 8).

2) O'Dwyer does not disclose the sensors including a first and second resonant sensor and including a microphone housed with the chest strap. Teodorescu et al. discloses a respiration and movement monitoring system including a resonant sensor (50) and may be used interchangeably with first sensor (12) and second sensor (18) to monitored the respiration and movements of an infant (14) (col. 3, lines 55-61; col. 4, lines 34-54). Therefore, it would have been obvious to utilize a resonant sensor as taught by Teodorescu et al. to monitor the movement of an infant.

3) Appellant's claim does not specifically claimed that the light means of the receiver is a night light, appellant simply and broadly claimed "a lighting means". Therefore, the Tao reference was used to show a teaching of a receiver with a light means (42) (col. 7, lines 34-36). Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilized a light means in the receiver as taught by Tao in a system as disclosed by O'Dwyer for providing a visible alarm indication and alerting the care taker of an alarm condition.

4) Teodorescu et al. discloses the respiration monitor includes a first (12) and second (14) sensor and a resonant sensor (50) may be used interchangeably with the first and second sensor to monitor the respiration and movement of the infant (col. 3, lines 55-61; col. 4, lines 34-54).

5) Appellant's claim does not specifically claimed that the light means of the receiver is a night light, appellant simply and broadly claimed "a lighting means". Therefore, the Tao reference

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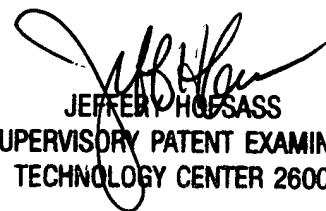
was used to show a teaching of a receiver with a light means (42) (col. 7, lines 34-36). Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize a light means in the receiver as taught by Tao in a system as disclosed by O'Dwyer for providing a visible alarm indication and alerting the care taker of an alarm condition.

6) Appellant's claim does not specifically claimed that the light means of the receiver is a night light, appellant simply and broadly claimed "a lighting means". Therefore, the Tao reference was used to show a teaching of a receiver with a light means (42) (col. 7, lines 34-36). Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilized a light means in the receiver as taught by Tao in a system as disclosed by O'Dwyer for providing a visible alarm indication and alerting the care taker of an alarm condition.

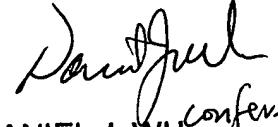
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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


JEFFREY HOSSACK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

Examiner: Toan Pham
March 8, 2002


DANIEL J. WU *confere*
Primary Examiner

John D. Gugliotta
137 South Main St., Suite 202
Akron, OH 44308